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December 31, 2019

National FOIA Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania NW, Room 5315  
Washington, DC 20460

**Re: Freedom of Information Act Request**

Dear Freedom of Information Act Officer:

This is a request for agency records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, made on behalf of Midas Gold Idaho, Inc.

Pursuant to FOIA, please send to the address above copies of the following:

Any and all agency records during the time period of January 1, 2019 through the date of this correspondence, including but not limited to, reports, memoranda, emails, notes, letters, documentation, correspondence and other internal and external communication exchange with or between EPA Region 10 personnel directly with, or regarding, the Nez Perce Tribe, pertaining to:

- "Midas;"
- Midas Gold;
- Midas Gold Idaho, Inc.;
- Midas Gold Corp. or Midas Gold Corporation;
- Stibnite Gold Project; and
- Stibnite Mine.

Under FOIA, a Federal agency must undertake a search that is "reasonably calculated to uncover all relevant documents." *Weisberg v. DOJ*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). This test will be satisfied by requesting that the appropriate Federal employees with records responsive to this request search for and produce the agency records in the Federal employee's possession, even if such agency records are located in non-governmental email accounts, retained on non-government data storage devices, or not otherwise retained on Federal agency databases.

Additionally, National Archives Bulletin 2015-02 states that the November 2014 amendments to the Federal Records Act, Pub. L. 113-187, provide a new definition of "electronic messages," that include "electronic mail and other electronic messaging systems that are used for purposes of communicating



between individuals,” 44 U.S.C. § 2911. Bulletin 2015-02 affirms that “[e]lectronic messages created or received in the course of agency business are Federal records.” Such agency records include “other electronic messaging systems text messaging, also known as Multimedia Messaging Service (MMS) and Short Message Service (SMS)” such as “iMessage, SMS, MMS on devices such as Blackberry, Windows, Apple or Android devices.”

Additionally under FOIA, the agency must make a determination on this request within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). A determination consists of a statement whether the agency will comply with the request, the reasons therefore, and informs the requester of the right to appeal an adverse decision.

If you have questions as to the scope of this request, please contact the undersigned. Additionally, if you believe any portion of this request is exempt from disclosure under FOIA, please provide a brief description of each withheld document (or portion of the document) and the legal basis for the withholding.

If the fees for searching and/or copying these records, will exceed \$500.00, please inform me of the estimated cost associated with this request.

If any of these documents are available in electronic format, the undersigned is willing to accept them in that format.

Thank you for your consideration of this request.

Sincerely,  
MIDAS GOLD IDAHO, INC.

L. Michael Bogert  
General Counsel

cc: Elizabeth McKenna  
Brooks Stanfield

TRACK ANOTHER SHIPMENT

777447666282

Delivered

Monday 1/13/2020 at 11:21 am

DELIVERED

Signed for by: M.LOUIS



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FROM

MIDAS GOLD  
JOLENE BOYD STEVENS  
405 S. 8th STREET  
Suite 201  
BOISE, ID US 83702  
208 866-6173

TO

U.S. EPA  
NATIONAL FOIA OFFICE  
1200 PENNSYLVANIA NW  
ROOM 5315  
WASHINGTON, DC US 20460  
202 566-1667